

DIVISION OF DISABILITY AND ELDER SERVICES

COMMUNITY FORENSIC SERVICES

CONDITIONAL RELEASE PROGRAM

Criminal Responsibility

- WSS 971.15(1) states "A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect the person lacked substantial capacity either to appreciate the wrongfulness of his or her conduct or conform his or her conduct to the requirements of law."
- This is the Wisconsin version of the insanity defense (often called NGI - not guilty by reason of insanity)

2

Criminal Responsibility

- If the person pleads not guilty by reason of mental disease or defect (NGI), the court appoints one or more non-DHFS examiners (forensic psychiatrists or psychologists) to examine the defendant and testify at trial
- If the person goes to trial on the original charges (i.e. pleads not guilty) then the sanity phase is a separate process and is heard after the guilt phase
- If the person is found NGI, then the commitment process is specified in WSS 971.17

3

Commitment under 971.17

- The commitment period is determined by the court and currently cannot exceed the maximum term of confinement in prison for the offense if the person had been found guilty of the crime
- Felonies punishable by life imprisonment can result in life commitments
- Misdemeanors are 2/3 of the period of confinement for the crime

4

Commitment under 971.17

- The court then determines whether the person can be placed in the community under Conditional Release (CR) or if the person should first be committed to Institutional Care (one of the Mental Health Institutes)
- Prior to making this decision, the court can order either a Predisposition Investigation (PDI), or a Supplementary Mental Examination (SME), or both
- An SME may be conducted on an inpatient basis - due within 15 days after the order with a 15 day extension allowed

5

Commitment under 971.17

- If the court orders CR, a plan is developed and presented to court within 21 days (an extension can be requested)
- If the court approves the plan, the person is then placed in the CR program.
- The person must honor his/her conditions of release including adhering to his/her treatment plan
- Failure to do so can initiate a revocation procedure
- If the person is revoked, then he/she would enter one of the Mental Health Institutes.

6

Commitment under 971.17

- If the court orders institutional care, then the person also enters one of the Mental Health Institutes.
- A person placed in one of the Mental Health Institutes (either as the initial placement or following a revocation) must petition the committing court for CR
- Upon receiving a petition, the court appoints an examiner (the statute states within 20 days after receipt of the petition) who examines the person and submits a report to the court within 30 days of appointment

7

Commitment under 971.17

- If the person's CR petition is granted, a plan is developed and submitted to the court within 60 days (extensions can be granted)
- Once this plan is approved, the person is placed on CR and must meet all conditions as specified
- The person remains on CR (or in institutional care if the person is unable to successfully petition for CR) for the entire length of their commitment

8

Program History

- Supreme Court decision Rolo v. Goers (April 14, 1993)
- State responsible for funding CR services
- Provided initiative to establish the CR program framework
- Researched other CR programs around country to find most effective model

9

Program Structure and Roles

Division of Disability and Elder Services:

- Administered out of DDES Central Office
- Responsible for planning, budgeting, contract administration, quality assurance and oversight, provider training and interface with Mental Health Institutes (MHI).
- Authorize treatment plans and services for CR clients

10

Program Structure and Roles

Contract Providers:

- DOC probation and parole agents provide supervision and risk monitoring/controls
- Established the CR supervision system utilizing agents specifically trained to work with CR clients

11

Program Structure and Roles

Contract Providers:

Regional providers:

- Case management
- Submit treatment plans to the court for direct court and placements from MHI's
- Direct service and subcontracting
- Implement mental health treatment and community supports

12

Strengths of Conditional Release (Proactive Approach continued)

- A client may be detained and or hospitalized if exhibiting symptoms of mental illness. This can occur with/without violation of rules of supervision and with/without treatment non compliance. Court must be informed of any such action within 48 hours of custody.
- DHFS provides on-going education and consultation for case managers, agents, court personnel, law enforcement, etc.

13

Strengths of Conditional Release (NGI) Community Treatment and Supervision

- DHFS funds, coordinates and administers the program based on a clear and comprehensive mission in accordance with Wisconsin State Statute 971.17
- Court ordered treatment includes psychiatric medication and psychiatric medication management; mental health counseling; residential, AODA, vocational and educational treatment and/or services.

14

Strengths of Conditional Release (continued)

- DHFS funding for all of the above for those clients that are indigent.
- Case management and clinical oversight by skilled providers under contract to DHFS.
- Supervision by skilled DOC agents under contract to DHFS.
- Linkages to County 51 System at time of treatment plan development and at maximum discharge date.

15

Strengths of Conditional Release (continued)

- Decision making, conflict resolution and problem solving are the products of a team process that is coordinated by the case manager and involves the DOC agent, other service providers, the client and the DHFS Community Forensic Services Specialist as needed.

16

Strengths of Conditional Release Proactive Approach

- Team members regularly consider the merit and appropriateness of all aspects of the treatment plan.
- Team members observe for signs and symptoms of mental illness, or danger to him/herself or others.
- Frequency of contact supports close monitoring of the above.

17

Benefits of Conditional Release (Proactive Approach continued)

- DHFS fosters a statewide network of community forensic providers that can quickly and easily share innovative ideas, program successes and concerns, resource development and other information that is pertinent to quality improvement.
- DHFS collects and analyzes program data and client information and uses the results to improve services and contribute to state and national research.

18

CR Program Statistics

- Average Daily Population FY 04 = 268
 - Total Served FY 04 = 431
- Released directly from the court = 56%
- Released from a Mental Health Institute = 44%
- Types of Crimes:
 - 89% Felony
 - 11% Misdemeanors

19

Diagnostic characteristics of clients

- 83% primary diagnosis of schizophrenia, other psychotic and mood disorders
- 3% primary diagnosis of substance abuse
- 46% co-occurring substance abuse/mental illness
- 2% primary diagnosis mental retardation
- 1% primary diagnosis of personality disorder
- 2% other diagnoses

(FY 04)

20

Client Supervision Levels

- Intensive = 3%
- High Risk = 14%
- Maximum = 36%
- Medium = 45%
- Other = 2%

As of June 30, 2004

21

Program Results

- Employment
 - 36% of CR clients had competitive employment
 - 7% had sheltered employment
 - 8% were involved in volunteer/Supportive work
- Living Situation
 - 63% of all clients were living independently
 - 17% were living in CBRF or adult foster settings
 - 15% had supported living situations or with family
 - 5% Other

FY 04 data

22

Program Results

- Low Recidivism
 - Of the 431 Total Population Served
 - 11.1% revoked
 - ⇒ 2.6% New Offense
 - 1.4% Non-violent crime
 - 1.2% Violent crime
 - 10.9% short term hospitalization
 - 14.6% disciplinary custody

FY 04 data

23

Future Directions and Development

- Continue to refine program cost and quality control processes
 - Consider developing a capped rate for vendor contracts
 - Develop risk assessment and level of service indicator tools for this population
 - Continue to explore alternatives to CBRF placements
- Expand model to other populations (e.g. WRC inmates, other corrections populations)
- Explore greater DHFS role in placement decisions
- Explore greater numbers of releases from MHI's

24

BMHSAS MH Teleconference website:

http://dhfs.wisconsin.gov/MH_BCMH/Teleconference/TeleconferenceSch.htm

Future Directions and Development

- Improve connection and continuity between CR providers and Institute treatment staff
- Identify effective services and strategies leading to success and apply both in CR and inpatient settings
- Identify causes of failure and target interventions to prevent them
- Maintain evidence based treatment and service strategies
- Develop parallel system for mentally ill inmates from Department of Corrections

25